THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT APPEAL NO.2203 OF 2005

Dated: 17-11-2005

Between:

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B.Laxman …. Appellant

And

The Cooperative Tribunal, Hyderabad

And others … Respondents

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THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT APPEAL NO.2203 OF 2005

J U D G M E N T (Per the Hon'ble Sri Bilal Nazki, ACJ):

This is a writ appeal against the order passed in writ petition No.3250 of 2002 by the learned Single Judge. The writ petitioner-appellant wanted quashing of the judgment of the Tribunal and also of the surcharge order passed by the primary authority against him. The surcharge order was passed against the petitioner after an enquiry. Against the surcharge order, the petitioner filed an appeal before the Tribunal. The Tribunal by order dated 19-04-1996 allowed the appeal and

remanded the matter to the second respondent for fresh consideration on the ground that the second respondent did not conduct independent enquiry under Section 60(1) of the Andhra Pradesh Cooperative Societies Act, 1964. After remand, the second respondent called upon the petitioner to submit explanation showing cause as to why the amounts should not be recovered from him. The petitioner submitted an explanation. After considering the explanation, the second respondent issued a notice of personal hearing on 16-09-1997. The petitioner did not appear before the second respondent, who passed final orders in the absence of the petitioner by proceedings dated 21-10-1998. Aggrieved by the same, the petitioner filed an appeal before the Tribunal. The Tribunal dismissed the appeal. The fact that the petitioner had been given an opportunity of personal hearing on four occasions has not been disputed, but he failed to appear before the second respondent and did not produce any evidence before the second respondent. Therefore, in our view, there is nothing wrong in the order passed by the second respondent or by the learned Single Judge. However, learned counsel for the appellant has drawn our attention to a statement, which according to him, has been made by the President of the Society before the second respondent, in which he has stated that he has the responsibility for maintenance of cash balance and the cash balance was also with him. This in no case proves that the petitioner had not misappropriated the funds of the Society. Therefore, in our view, no interference is called for in the order of the learned Single Judge.

The writ appeal is accordingly dismissed. No order as to costs.

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(Bilal Nazki, ACJ)

17th November, 2005

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(R.Subhash Reddy,J)

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